



Credit Union National Association

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February 25, 2011

Ms. Jennifer J. Johnson
Secretary
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue, NW
Washington, DC 20551
regs.comments@federalreserve.gov

Re: Docket No. R-1366—Interim Final Rules on Disclosures Required
Under the Mortgage Disclosure Improvement Act

Dear Ms. Johnson:

The Credit Union National Association (CUNA) appreciates the opportunity to submit comments to the Federal Reserve Board (Board) in response to the interim final rule revising the Board's September 2010 interim rule addressing certain Regulation Z disclosure requirements for mortgage loans. Specifically, these changes further implement provisions of the Mortgage Disclosure Improvement Act (MDIA), which was enacted in 2008, and will require lenders to disclose how borrowers' mortgage payments will change over time so they may be alerted to the risks of payment increases before they consummate the loan. By way of background, CUNA is the largest credit union advocacy organization in this country, representing approximately 90% of our nation's 7,600 state and federal credit unions, which serve 93 million members.

CUNA believes that the interim final rule's modifications to the September interim rule are a positive step but that more should be done to make MDIA disclosures clearer to consumers. The Board notes that comments received in response to the September 2010 interim rule raised issues that this interim final rule does not address; however, the Board plans to take into account those comments, as well as issues raised by comments received regarding this interim final rule, before publication of a permanent final rule. CUNA urges the Board to proceed to a permanent final rule that will address these significant concerns as expeditiously as possible.

In its comment letter on the September rule, CUNA asked for additional clarification regarding the escrow disclosure requirement because it is often not possible to accurately estimate future tax and insurance rates. We support the Board's clarification in this interim final rule that these disclosures should use the same estimate for taxes and insurance in each column except when changes in periodic mortgage insurance premiums are known to the creditor at the time the disclosure is made.

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In its earlier comment letter, CUNA also asked the Board to adopt disclosures for adjustable rate loans which would provide the maximum interest rate at the first adjustment, instead of the maximum rate during the initial five-year period. The compliance burdens associated with providing the maximum rate during this five-year period will be greater, could result in an increased chance of errors, and would not provide any significant, additional benefits for consumers.

Although this interim final rule clarifies that the five-year time frame is to be measured from the first regular payment due date—rather than five years from the time of loan consummation—this change does not address credit unions' regulatory burden concerns. The interim final rule, even as amended, continues to require speculative information which is more likely to confuse consumers than inform them and imposes a significant regulatory burden on credit unions. We urge the Board to revise this requirement to only require disclosure of the maximum possible interest rate at the mortgage's first rate adjustment in its permanent final regulation.

CUNA appreciates the clarification to Comment 18(h)-2 of 12 C.F.R. § 226.18 that creditors should continue to follow the rules in Section 226.18(g) and associated commentary to calculate the total of payments for transactions secured by real property or a dwelling. Prior to the September and December interim rules, Section 226.18(g) required the disclosure of a payment schedule for all closed-end loans including mortgage loans. This payment schedule informed borrowers of the total number of payments. These interim rules now require a payment Summary Table for mortgage loans which does not contain any information concerning the number of payments. CUNA believes that further clarification is still needed. CUNA believes that the total number of payments should still be provided for mortgage loans either in the new Payment Summary Table or elsewhere in close proximity to the Payment Summary Table. Credit unions and data processors remain confused regarding how to integrate information regarding the number of payments a consumer will make into the new "interest rate and payment summary for mortgage transactions" table under § 226.18(s)—especially with respect to adjustable-rate mortgages—including whether placing the total number of payments within the table is permissible.

This confusion is in large part because Section 226.18(s) does not require the number of payments to be disclosed in the Board's model forms: H-4(E), (F), (G), and (H). CUNA believes that integrating the total number of payments into the table would increase consumers' ability to understand the terms of their loans more easily. We ask to Board to consider providing a revised model form of the table which integrates the total number of payments the consumer will make over the life of the loan.

Z Commentary at Section 18(g)-1, permits, but does not require, creditors to include in the payment disclosed in the payment schedule, amounts that are not finance charges or part of the amount financed. The Commentary states:

1. *Amounts included in repayment schedule.* The repayment schedule should reflect all components of the finance charge, not merely the portion attributable to interest. A prepaid finance charge, however, should not be shown in the repayment schedule as a separate payment. The payments may include amounts beyond the amount financed and finance charge. For example, the disclosed payments may, at the creditor's option, reflect certain insurance premiums where the premiums are not part of either the amount financed or the finance charge, as well as real estate escrow amounts such as taxes added to the payment in mortgage transactions.

Neither Regulation Z nor the Commentary at Section 18(s), dealing with the new Payment Summary Table, contains any similar language which addresses the issue of whether the Payment and Interest amount in the Payment Summary Table should or should not include premiums for credit insurance products such as credit life and credit disability insurance.

In the September interim rule the Board added language to Comment 18(s)(3)(i)(C)-1 to clarify that premiums or payments for credit protection products should not be included in the disclosed escrow amounts because of the concern that inclusion of such amounts may cause some consumers to believe these products are required. While CUNA agrees with this concern, we believe the Total Est. Monthly Payment required in the Table will be inaccurate and lower than the actual payment for those borrowers who elect to purchase credit insurance products.

We ask the Board to address this issue in its permanent final rule by clarifying that credit unions continue to have the option to include the amount of credit insurance premiums within the Payment and Interest portion of the Table and in the Total Est. Monthly Payment portion of the Table. In the alternative, CUNA suggests that creditors be permitted, but not required, to provide the total payment including credit insurance premiums and print below the Payment Summary Table (making sure that it is outside the Table), using language such as:

“The above payment does not include any amounts for voluntary credit insurance you requested. Federal Law does not permit us to include this information in the Table shown above.”

In addition, we note that various Regulation Z requirements use conflicting definitions on applicability; some provisions apply only to a consumer's principal dwelling, others apply to any dwelling, and so forth. These conflicting definitions of applicability can cause confusion for credit unions and increase their regulatory burden. We therefore ask the Board to simplify these applicability definitions to the extent such simplification is consistent with the Mortgage Disclosure Act and other applicable statutes.

Thank you for the opportunity to comment on the interim final rule that will revise certain Regulation Z disclosure requirements for mortgage loans in order to implement provisions of the MDIA. If you have questions about our comments, please feel free to contact Assistant General Counsel and Senior Compliance Counsel Mike McLain at (608) 231-4185 or me at (202) 508-6705.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael S. Edwards". The signature is fluid and cursive, with the first name "Michael" and last name "Edwards" clearly legible.

Michael S. Edwards
Senior Assistant General Counsel